

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4789

**FISCAL
NOTE**

BY DELEGATES WORRELL AND PUSHKIN

[Introduced February 10, 2020; Referred to the
Committee on Banking and Insurance then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §9-4F-1, §9-4F-2, §9-4F-3, §9-4F-4, §9-4F-5, §9-4F-6, §9-4F-7, §9-4F-8, §9-
 3 4F-9 and §9-4F-10, all relating to creating the Affordable Medicaid Buy-In Program;
 4 requiring the Department of Health and Human Resources to develop and administer the
 5 Affordable Medicaid Buy-In Plan; creating the Health Care Affordability And Access
 6 Improvement Fund; establishing an advisory council to the Affordable Medicaid Buy-In
 7 Program; requiring a study and reports be made; defining terms; setting limitations of
 8 employers; requiring rule-making; and appropriating funds to the Health Care Affordability
 9 and Access Improvement Fund and the Department of Health and Human Resources.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4F. THE AFFORDABLE MEDICAID BUY-IN PROGRAM.

§9-4F-1. Purpose.

1 The purpose of the Affordable Medicaid Buy-In Program is to establish a state public
 2 option through Medicaid to provide West Virginia residents with a choice of a high-quality, low-
 3 cost health insurance plan.

§9-4F-2. Definitions.

1 As used in this article:

2 “Affordable Medicaid Buy-In Plan” or “plan” means a state-administered public option
 3 health care coverage plan that leverages the Medicaid coverage structure;

4 “Copayment” means a fixed dollar amount that an Affordable Medicaid buy-in enrollee
 5 must pay directly to a health care provider or pharmacy for a service, visit or item;

6 “Deductible” means a fixed dollar amount that a person enrolled in the Affordable Medicaid
 7 buy-in plan may be required to pay during a benefit period before the plan begins payment for
 8 covered benefits;

9 “Department” means the Department of Health and Human Resources;

10 “Health care coverage premium cost” means the premium charged for health care

11 coverage that is available or currently provided to an individual;

12 “Health care provider” means any physical, mental or behavioral health provider, including
13 a hospital, physician, clinic and other health facility;

14 “Managed care organization” means an organization licensed or authorized through an
15 agreement among state entities to manage, coordinate and receive payment for the delivery of
16 specified services to enrolled members;

17 “Medicaid” means the joint federal-state health coverage program pursuant to Title 19 or
18 Title 21 of the federal Social Security Act, as amended, and the rules promulgated pursuant to
19 that act;

20 “Medicare” means coverage under Part A or Part B of Title 18 of the federal Social Security
21 Act, as amended, and the rules promulgated pursuant to that act;

22 “Premium” means the monthly amount that a Plan enrollee must pay directly to the
23 managed care organization offering the enrollee’s plan for consideration of the plan’s coverage;
24 and

25 “Resident” means a person establishing intent to permanently reside in West Virginia,

§9-4F-3. The plan.

1 (a) By January 1, 2022, the department shall establish an Affordable Medicaid Buy-In Plan
2 and shall offer the plan for purchase by a resident:

3 (1) Who is ineligible for the following:

4 (A) Medicaid;

5 (B) Medicare; and

6 (C) Advance premium tax credits under the federal Patient Protection and Affordable Care
7 Act; and

8 (2) Whose employer has not disenrolled or denied the resident enrollment in employer-
9 sponsored health coverage on the basis that the resident would otherwise qualify for enrollment
10 in Affordable Medicaid buy-in coverage.

11 (b) Contingent upon further study as outlined in §9-4F-7 of this code, the department may
12 expand eligibility to other West Virginia residents beyond those individuals who qualify for the plan
13 pursuant to the provisions of subsection (a) of this section.

14 (c) The department shall establish benefits under the plan in accordance with federal and
15 state law to ensure that covered benefits include:

16 (1) Ambulatory patient services;

17 (2) Emergency services;

18 (3) Hospitalization;

19 (4) Maternity and newborn care;

20 (5) Mental health and substance use disorder services, including behavioral health
21 treatment;

22 (6) Prescription drugs;

23 (7) Rehabilitative and habilitative services and devices;

24 (8) Laboratory services;

25 (9) Preventive and wellness services, including reproductive health and chronic disease
26 management; and

27 (10) Pediatric services, including oral and vision care.

28 (d) For services and benefits provided under this section, the department may pursue any
29 available federal financial participation.

30 (e) The department shall coordinate the plans enrollment and eligibility to maximize the
31 continuity of coverage between the plan, Medicaid and private health plans.

32 (f) Health care provider reimbursement rates shall be based on the Medicaid fee schedule.
33 Contingent upon available funds, the department may increase reimbursement rates for health
34 care providers, so long as these increases do not jeopardize the sustainability of Medicaid or the
35 plan.

36 (g) The plan shall be established in compliance with nondiscrimination mandates set forth

37 in the Constitution of West Virginia, the West Virginia Human Rights Act, and the federal Civil
38 Rights Act of 1964 and shall be available to residents irrespective of age, race, gender, national
39 origin, immigration status, disability or geographic location.

§9-4F-4. Administration.

1 (a) The department shall develop a plan for administering the plan that prioritizes
2 affordability for enrollees and provides opportunities to maximize federal dollars.

3 (b) The department shall:

4 (1) Establish an affordability scale for premiums and other cost-sharing fees, such as
5 copayments and deductibles, based on household income. The department shall offer discounted
6 premiums and cost-sharing fees in accordance with the affordability scale to residents eligible to
7 enroll in the plan: *Provided*, That the financial assistance is, at a minimum, offered to residents
8 with household incomes below 200 percent of the federal poverty level;

9 (2) Set the total amount of premiums that should be assessed to plan enrollees, after an
10 actuarial analysis, to ensure maximum access to coverage. Premiums imposed may be set at a
11 level sufficient to offset the costs of health benefits under the plan and related administrative
12 costs; and

13 (3) Establish enrollment periods that are no less extensive than those provided for under
14 the federal Patient Protection and Affordable Care Act.

15 (c) The department may:

16 (1) Administer the plan through the managed care organizations under contract with the
17 state to provide Medicaid services and benefits;

18 (2) Establish special enrollment periods for individuals, categories of enrollees or the entire
19 population eligible for the plan;

20 (3) Set the medical loss ratio for insurers offering the plan consistent with the ratio
21 applicable to Medicaid;

22 (4) Establish a method for procuring prescription drugs. This authority includes:

23 (A) Consulting or contracting with other entities or states for combined purchasing power;

24 and

25 (B) Seeking federal authority for a wholesale drug importation program that complies with

26 federal provisions relating to importation of pharmaceuticals and federal requirements regarding

27 safety and cost savings; and

28 (5) Seek viable opportunities to reduce costs of the plan to consumers and the general

29 fund: *Provided*, That such opportunities are consistent with the provisions of this article, do not

30 reduce eligibility or benefits for Medicaid enrollees and do not jeopardize federal financing for

31 medical assistance.

§9-4F-5. Health Care Affordability and Access Improvement Fund.

1 (a) The Health Care Affordability and Access Improvement Fund is created as a

2 nonreverting fund in the state treasury. The department shall administer the fund. The fund shall

3 be invested by the State Treasurer as other state funds are invested. Income earned from

4 investment of the fund shall be credited to the fund. Any unexpended or unencumbered balance

5 remaining at the end of a fiscal year does not revert to the general revenue fund.

6 (b) Money in the Health Care Affordability and Access Improvement Fund shall be

7 expended by the department to ensure affordability of the plan for enrollees in the plan.

8 Disbursements from the fund shall be made by warrant of the State Treasurer pursuant to

9 vouchers signed by the Secretary of the Department of Health and Human Resources or the

10 secretary's designee.

11 (c) The department may expend a maximum of five percent per year of the fund for the

12 administrative costs related to the plan.

§9-4F-6. Enrollment.

1 The department and the West Virginia health insurance exchange shall coordinate efforts

2 and cooperate to establish:

3 (1) A system under which residents may apply for enrollment in, receive a determination

4 of eligibility for participation in and renew participation in Medicaid, the plan or a qualified health
5 plan offered by the exchange; and

6 (2) A consumer outreach program to assist residents with enrolling in Medicaid, the plan
7 and qualified health plans offered through the exchange.

§9-4F-7. Additional study.

1 (a) The department, in coordination with the Joint Committee on Government and Finance,
2 shall conduct further study of the plan to evaluate its viability for offering it to a wider population
3 of residents. The study shall include an assessment of the:

- 4 (1) Viability of offering the plan to more residents;
- 5 (2) Impact on the individual and group insurance markets;
- 6 (3) Level of provider reimbursement rates to maximize access to health care services;
- 7 (4) Steps necessary for the state to apply for federal waivers to maximize federal dollars
8 and leverage them to ensure affordability for enrollees in the plan; and
- 9 (5) Sustainability options for a plan that is open to all residents.

10 (b) By September 30, 2021, the department shall submit a report to the Joint Committee
11 on Government and Finance, detailing the findings of additional study of the plan. The report shall
12 include proposals for continued sustainability of the plan and offering the plan to more residents.

13 (c) Contingent upon the findings of the additional study of the plan, the department may
14 seek any federal waivers necessary to offer the plan to more residents and maximize federal
15 dollars to ensure affordability for enrollees. The department’s authority to seek federal waivers
16 includes authority to seek approval for health care programs and delivery system innovations
17 under Sections 1331 and 1332 of the federal Patient Protection and Affordable Care Act and
18 Section 1115 of the federal Social Security Act.

§9-4F-8. Advisory council; rule-making.

1 (a) The Secretary of the Department of Health and Human Resources shall establish an
2 Affordable Medicaid Buy-In Program advisory council, to advise the department on

3 implementation, plan affordability, marketing, enrollment, outreach and evaluation of health care
4 access for residents enrolled in the plan. The advisory council consists of:

- 5 (1) The Secretary of the Department of Health and Human Resources;
- 6 (2) The Insurance Commissioner;
- 7 (3) The chief executive officer of the West Virginia health insurance exchange;
- 8 (4) Five consumer advocates;
- 9 (5) Three health care providers;
- 10 (6) One representative from a Medicaid managed care organization;
- 11 (7) A least one public health expert with experience in behavioral and mental health;
- 12 (8) At least one public health expert with experience evaluating health data and utilization
13 trends; and

14 (9) At least one researcher with experience in health care financing and administration.

15 (b) The Governor shall appoint the members identified in subdivisions (4) through (9).
16 subsection (a) of this section.

17 (c) The Secretary of the Department of Health and Human Resources shall propose
18 emergency rules in accordance with the provisions of §29A-3-15 of this code to implement the
19 provisions of this article. Thereafter, the secretary shall propose additional rules for legislative
20 approval in accordance with the provisions of §29A-3-1 et seq. of this code as may be needed to
21 administer and maintain the Affordable Medicaid Buy-In Program.

§9-4F-9. Limitation on employers.

1 An employer that offers employer-sponsored health coverage as of the effective date of
2 this article may not disenroll or deny enrollment to a resident covered under the employer's
3 employer-sponsored health coverage on the basis that the employer believes that the resident
4 would qualify for plan coverage.

§9-4F-10. Appropriations.

1 (a) Twelve million dollars is appropriated from the general revenue fund to the Department

2 of Health and Human Resources for expenditure in fiscal year 2021 for the implementation and
3 administration of the plan pursuant to the provisions of this article and to conduct the expansion
4 study pursuant to §9-4F-7 of this code. Any unexpended or unencumbered balance remaining at
5 the end of fiscal year 2021 shall revert to the general revenue fund.

6 (b) Twelve million dollars is appropriated from the general revenue fund to the Health Care
7 Affordability and Access Improvement Fund and access the fund for expenditure in fiscal year
8 2021 and subsequent fiscal years to ensure affordability of the plan for enrollees in the plan
9 pursuant to this article. Any unexpended or unencumbered balance remaining in the fund at the
10 end of a fiscal year does not revert to the general revenue fund.

NOTE: The purpose of this bill is to create the Affordable Medicaid Buy-In Program. The bill requires the Department of Health and Human Resources to develop and administer the Affordable Medicaid Buy-In Plan. The bill creates the Health Care Affordability And Access Improvement Fund. The bill establishes an advisory council to the Affordable Medicaid Buy-In Program. The bill requires a study and reports be made. The bill defines terms. The bill sets limitations of employers. The bill requires rule-making. The bill appropriates \$12 million to the Health Care Affordability and Access Improvement Fund, and \$12 million to the Department of Health and Human Resources.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.